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CITY OF SALEM

November 2, 2011

Decision

City of Salem Zoning Board of Appeals

Petition of LAWRENCE GALLAGHER requesting Variances from lot area per dwelling unit and off-street parking regulations, for the property located at 11 DEARBORN STREET (R-2), in order to use the single-family house as a two-family house.

A public hearing on the above Petition was opened on October 19, 2011, pursuant to Mass General Law Ch. 40A, § 11. The hearing was closed on that date with the following Zoning Board of Appeals members present: Rebecca Curran (chair), Richard Dionne, Jamie Metsch and Bonnie Belair (alternate).

Petitioner seeks Variances pursuant to Sections 4.1 and 5.1 of the City of Salem Zoning Ordinances.

Statements of fact:

1. Lawrence Gallagher represented himself at the hearing.
2. The single-family house located at 11 Dearborn Street contains a second unit, which the petitioner seeks to legalize. Space exists for four tandem parking spaces, or two standard spaces.
3. In a petition date-stamped September 13, 2011, petitioner requested Variances from lot area per dwelling unit and from off-street parking regulations in order to allow the use of the second unit. No exterior construction is proposed.
4. At the hearing, no one spoke in opposition to the petition. The petitioner submitted several signatures of abutters indicating their support.

The Board of Appeal, after careful consideration of the evidence presented at the public hearing, and after thorough review of the plans and petition submitted, makes the following **findings**:

1. Special conditions and circumstances exist affecting the parcel or building, which do not generally affect other land or buildings in the same district; the house is large, and its use as a single-family home causes a financial hardship to the appellant.
2. Desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the zoning ordinance, since a two-family house is in keeping with the neighborhood.
3. In permitting such change, the Board of Appeals requires certain appropriate conditions and safeguards as noted below.

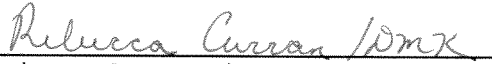
On the basis of the above findings of fact and all evidence presented at the public hearing including, but not limited to, the Plans, Documents and testimony, the Zoning Board of Appeals **concludes**:

1. Variances from Sections 5.1 (Off-Street Parking) and 4.1 of the Salem Zoning Ordinance are granted to allow for use of the property as a two-family home.

In consideration of the above, the Salem Board of Appeals voted, four (4) in favor (Curran, Metsch, Dionne and Belair) and none (0) opposed, to grant petitioner's request for Variances subject to the following **terms, conditions, and safeguards**:

1. Petitioner shall comply with all city and state statutes, ordinances, codes and regulations.
2. All construction shall be done as per the plans and dimensions submitted to and approved by the Building Commissioner.
3. All requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered to.
4. Petitioner shall obtain a building permit prior to beginning any construction.
5. A Certificate of Occupancy is to be obtained.
6. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to, the Planning Board.
7. Petitioner is to provide two permanent, year-round, unobstructed off-street parking spaces.

8. Petitioner is to gate the section of fence obstructing the driveway to allow free access to the parking spaces.


Rebecca Curran, Chair
Salem Board of Appeals

A COPY OF THIS DECISION HAS BEEN FILED WITH THE PLANNING BOARD AND THE CITY CLERK

Appeal from this decision, if any, shall be made pursuant to Section 17 of the Massachusetts General Laws Chapter 40A, and shall be filed within 20 days of filing of this decision in the office of the City Clerk. Pursuant to the Massachusetts General Laws Chapter 40A, Section 11, the Variance or Special Permit granted herein shall not take effect until a copy of the decision bearing the certificate of the City Clerk has been filed with the Essex South Registry of Deeds.